

## § 2702.7

### § 2702.7 No fees; waiver or reduction of fees.

(a) No fees shall be charged to any requester, including commercial use requesters, if the anticipated cost of processing and collecting the fee would be equal or greater than the fee itself. Accordingly, the Commission has determined that fees of less than \$20 shall be waived.

(b) Documents shall be furnished without any charge, or at a charge reduced below the fees otherwise applicable, if disclosure of the information is determined to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(1) The following six factors will be employed in determining when such fees shall be waived or reduced:

(i) The subject of the request: Whether the subject of the requested records concerns “the operations or activities of the government”;

(ii) The informative value of the information to be disclosed: Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to “public understanding”;

(iv) The significance of contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities;

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

(2) The Chief FOIA Officer, upon request, shall determine whether a waiver or reduction of fees is warranted.

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Requests shall be made concurrently with requests for information under § 2702.3. In accordance with the procedures set forth in § 2702.3, appeals of adverse decisions may be made to the Commission within 5 working days. Determination of appeals will be made by the Commission within 10 working days of receipt.

[54 FR 3022, Jan. 23, 1989, as amended at 62 FR 55336, Oct. 24, 1997; 72 FR 71791, Dec. 19, 2007]

### § 2702.8 Advance payment of fees; interest; debt collection procedures.

(a) Advance payment of fees generally will not be required. However, an advance payment (before work is commenced or continued on a request) may be required if the charges are likely to exceed \$250.

(b) Requesters who have previously failed to pay a fee charged in timely fashion (*i.e.*, within 30 days of the date of billing) may be required first to pay that amount plus any applicable interest (or demonstrate that the fee has been paid) and then make an advance payment of the full amount of the estimated fee before the new or pending request is processed.

(c) Interest charges may be assessed on any unpaid bill starting on the 31st day following the day on which the billing was sent at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of billing.

(d) The Debt Collection Act of 1982, Pub. L. 97–365, including disclosure to consumer credit reporting agencies and the use of collection agencies will be utilized to encourage payment where appropriate.

[54 FR 3023, Jan. 23, 1989]

## PART 2703—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

2703.2 Designated agency ethics official and alternate designated agency ethics official.

AUTHORITY: 5 U.S.C. 7301; 5 CFR 2638.202.

SOURCE: 61 FR 39872, July 31, 1996, unless otherwise noted.